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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,001	03/21/2000	Thomas John Goodwin	MSC-22859-2-CU	7201

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EXAMINER

LACOURCIERE, KAREN A

ART UNIT	PAPER NUMBER
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1635

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15

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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Applicant should note, the numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

In the amendment filed 3/17/03, claims 27-35 were newly added. However, applicant is referred to the previous Office action mailed 9/23/02, page 2, lines 15-16, where it was indicated that misnumbered claim 13 was renumbered as claim 27. Misnumbered claims 27-35, newly submitted with the amendment filed 03-17-2003, have been renumbered 28-36. Additionally, claim 13, submitted with the amendment filed 03-17-2003, is maintained as renumbered to claim 27, as set forth in the prior Office action.

The amendment filed on 03-17-2003 amending all claims drawn to the elected invention, such that the claims no longer read on the invention elected by original presentation, and additionally presenting new claims drawn to a non-elected invention is non-responsive, as all pending claims are now drawn to a non-elected invention (MPEP § 821.03). Newly submitted claims 28-36 and amended claims 1-3, 5-10 and 27 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: As originally presented, and previously examined, claims 1-12 and 27 were drawn to a transcription factor decoy directed against a nucleotide sequence encoding a shear stress response element and a method of inducing expression of a gene using said transcription factor decoy. As amended, claims 1-3, 5-10 and 27 are directed to methods wherein a transcription factor decoy oligonucleotide sequence encoding a stress response element and its complement are used. These newly claimed methods operate by encoding a shear stress response element and its complement, which differs from the originally presented claims, which operate by a mechanism wherein the decoy is directed against the nucleic acid encoding an SSRE. Newly presented claim 28 is directed to a method with an opposite effect than that of the originally presented methods as these newly presented methods inhibit expression of at least one gene and further operate by encoding a shear stress response element and its complement, whereas the originally presented claims induce expression and operate by a mechanism wherein the decoy is directed against the nucleic acid encoding an SSRE. Newly presented claims 29-30 have a different method effect in that the effect of these methods is to monitor expression of a gene, whereas the originally presented claims had the effect of inducing the expression of at least one gene. Newly presented claim 31 has a different method effect than the originally presented claims in that it has the effect of modulating the expression of a gene, which would result in both the induction and suppression of expression and further operate by encoding a shear stress response element and its complement, whereas the originally presented claims induce expression and operate by a mechanism wherein the decoy is directed against the nucleic acid encoding an SSRE. None of the pending method claims utilize or make the originally presented decoy oligonucleotide compositions of claims 11 and 12, which were directed to oligonucleotide directed against a nucleic acid encoding an SSRE, whereas the newly presented and pending claims actually encode a shear stress response element and its complement. Newly presented claims 32-36 are drawn to materially different composition than that of the originally presented compositions (claims 11 and 12) in that they actually encode a shear stress response element and its complement.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Lacourciere whose telephone number is (703) 308-7523. The examiner can normally be reached on Monday-Thursday 8:30-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on (703) 308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 305-1935 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Karen A. Lacourciere
July 30, 2003


KAREN LACOURCIERE
PATENT EXAMINER